

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

KENNETH L. HOLLAND,)	
)	
Plaintiff,)	
)	
v.)	C. A. No. 05-464-SLR
)	
STANLEY TAYLOR, et al.,)	
)	
Defendants.)	

DEFENDANTS' MOTION FOR EXTENSION OF TIME

Defendants, by the undersigned counsel, hereby move to extend the time to complete discovery and summary judgment briefing, and in support thereof state as follows:

1. Pursuant to this Court's Order dated April 25, 2006, the discovery deadline in this case was August 25, 2006. [D.I. 36].

2. On October 23, 2006, Plaintiff moved to amend the Complaint to remove Defendants Bill Etto, Helen Moore and Steven Devine as defendants. [D.I. 50]. Plaintiff also sought to add Kent Raymond, Wilbur Justice and Theresa Demarco¹ as defendants. Plaintiff's Motion to Amend was unopposed.

3. On November 27, 2006, Defendants moved for summary judgment. [D.I. 52, 53]. Briefing was completed on January 12, 2007.

4. On July 26, 2007, this Court granted Plaintiff's Motion to Amend. [D.I. 59]. On or about July 31, 2007, Defendants requested an extension of time to conduct brief discovery regarding Plaintiff's claims against the Defendants named in the Amended Complaint. Defendants also requested leave of the Court to file an amended summary judgment motion to address the claims presented in the Amended Complaint. [D.I. 60].

¹ Submission of this Motion does not constitute waiver of any defenses available to Raymond, Justice and Demarco.

5. On or about August 8, 2007, a scheduling order was issued by the Court denying without prejudice to renew Defendants' Motion for Summary Judgment and granting Defendants' Motion for an Extension of Time to complete discovery. [D.I. 61]. According to the new scheduling order, discovery is due October 8, 2007; dispositive motions are due November 8, 2007; an Answering Brief is due December 10, 2007 and a Reply Brief is due December 26, 2007. *Id.*

6. The docket in this matter reflects that the newly added Defendants have not even been served yet. Consequently, an answer has not been filed on their behalf. Defendants cannot move for summary judgment prior to the filing of an answer.

7. Given these circumstances, Defendants are requesting further amendment of the scheduling order so that the deadlines will not occur until after Defendants have been served.

8. Because there is no trial date set in this matter, the relief sought will not adversely impact the progress of this action.

WHEREFORE, Defendants respectfully request that this Court grant their Motion for Extension of Time.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Eileen Kelly
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Attorney for Defendants

Dated: October 2, 2007

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STANLEY TAYLOR, et al.,)	
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Defendants.)	

7.1.1 CERTIFICATE OF COUNSEL

Undersigned counsel hereby certifies, pursuant to Local Rule 7.1.1, that:

1. Plaintiff Kenneth L. Holland is currently incarcerated and it is not practical for undersigned counsel to communicate with him concerning Defendants' Motion for Extension of Time.
2. Therefore, undersigned counsel assumes that the Motion is opposed.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Eileen Kelly

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(302) 577-8400
Attorney for Defendants

Dated: October 2, 2007

CERTIFICATE OF SERVICE

I hereby certify that on October 2, 2007, I electronically filed *Defendants' Motion for Extension of Time* with the Clerk of Court using CM/ECF. I hereby certify that on October 2, 2007, I have mailed by United States Postal Service, the document to the following non-registered party:

Kenneth L. Holland
SBI#164800
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

/s/ Eileen Kelly
Deputy Attorney General
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